

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BUNGIE, INC.,

Plaintiff,

v.

ELITE BOSS TECH INCORPORATED,
11020781 CANADA INC., DANIEL
FAGERBERG LARSEN, ROBERT JAMES
DUTHIE NELSON, SEBASTIAAN JUAN
THEODOOR CRUDEN A/K/A
“LUZYPHER,” JOHN DOE NO. 4 A/K/A
“GOODMAN,” YUNXUAN DENG A/K/A
“YIMOSECAI,” ANTHONY ROBINSON
A/K/A “RULEZZGAME,” EDDIE TRAN
A/K/A “SENTIENT”, CHENZHIJIE CHEN
A/K/A “CHENZHIJIE402, DSOFT, CVR
37454303, MARTA MAGALHAES A/K/A
MINDBENDER A/K/A BLUEGIRL, AND
JOHN DOES NO. 9-20,

Defendants.

Case No. 2:21-cv-01112-TL

DECLARATION OF AKIVA COHEN IN
SUPPORT OF MOTION FOR DEFAULT
JUDGMENT

1. I am a Partner at Kamerman, Uncyk, Soniker, & Klein, P.C., attorneys for
Bungie, Inc. (“Bungie”) and submit this declaration in support of Bungie’s Motion for Default
Judgments. I have personal knowledge of the facts submitted herein, and could and would testify
competently to them if called to do so.

DECLARATION OF AKIVA COHEN- 1
(Case No. 2:21-cv-01112-TL)

MILLER NASH LLP
ATTORNEYS AT LAW
T: 206.624.8300 | F: 206.340.9599
PIER 70
2801 ALASKAN WAY, STE 300
SEATTLE, WASHINGTON 98121

2. Attached hereto as Exhibit 1 is a true and correct copy of the section of the Wallhax.com Frequently Asked Questions page explaining that the Cheats are sold on a subscription basis.

3. Attached hereto as Exhibit 2 is a true and correct copy of a post from the customer support forum on the Wallhax.com website.

4. Attached hereto as Exhibit 3 is a true and correct copy of a page from the Wallhax.com website.

5. Attached hereto as Exhibit 4 is a demonstrative exhibit accurately reflecting Telegram messages between the Wallhax partners. Those messages are accurately reproduced, in more easily readable form, from underlying documents produced by Defendant Robert James Duthie Nelson. Mr. Nelson's affidavit authenticating as business records the documents he produced is annexed hereto as Exhibit 5.

6. Attached hereto as Exhibit 6 are email messages from Robert Nelson to Daniel Larsen and Patrick Schaufuss relating to the distribution of the Wallhax revenue.

7. Attached hereto as Exhibit 7 is the Danish Business Authority registration record for "DSOft."

8. I have reviewed the CheatAutomation.com forums, both prior to filing the initial complaint in this action and subsequently. Before the Complaint was filed, Larsen made multiple posts to these forums under his handle "Crypt." Those posts were deleted (or hidden) after the Complaint was filed.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Wallhax.com Terms of Service.

10. Attached hereto as Exhibit 9 is a compilation of TD Canada Trust bank account statements for 1102 Canada.

11. Attached hereto as Exhibit 10 is a compilation of WiseBusiness, Ltd. account statements for 1102 Canada.

DECLARATION OF AKIVA COHEN- 2
(Case No. 2:21-cv-01112-TL)

MILLER NASH LLP
ATTORNEYS AT LAW
T: 206.624.8300 | F: 206.340.9599
PIER 70
2801 ALASKAN WAY, STE 300
SEATTLE, WASHINGTON 98121

1 12. Attached hereto as Exhibit 11 is a true and correct copy of a Wallhax.com
2 webpage advertising cheats for sale, including, inter alia, DICE's *Star Wars Battlefront 2*,
3 Valve's *Counter-Strike*, Studio Wildcard's *ARK: Survival Evolved*, Rare's *Sea of Thieves*, and
4 Electronic Arts' *Battlefield V*. I have reviewed the license agreements for each of the games
5 listed above; each includes a provision barring hacking.

6 13. Attached hereto as Exhibit 12 is a compilation of copyright registration
7 information for *Star Wars Battlefront 2*, *Counter-Strike*, *ARK: Survival Evolved*, *Sea of Thieves*,
8 and *Battlefield V*.

9 14. Attached hereto as Exhibit 13 is a demonstrative showing the number of users of
10 the *Destiny 2* cheat by country, accurately reflecting data contained in business records produced
11 by Mr. Nelson.

12 15. Attached hereto as Exhibit 14 is a Wayback Machine archive of the Wallhax.com
13 Frequently Asked Questions page as it appeared when I personally viewed it on August 11,
14 2021.

15 16. Attached hereto as Exhibit 15 is a demonstrative reflecting the drop in non-
16 *Destiny 2* cheat usage following Wallhax's discontinuation of the *Destiny 2* cheat due to the
17 filing of this lawsuit, accurately reflecting data contained in business records produced by Mr.
18 Nelson.

19 17. Including our billings for time through December 2022, and exclusive of time
20 charges from January 2023, my firm has charged Bungie \$249,428.50 in fees and \$14,743.92 in
21 costs for work on this matter. A copy of redacted bills for those charges is attached hereto as
22 Exhibit 16. Certain descriptions of work have been redacted for privilege. We record our time
23 on an electronic timekeeping system and I review each pre-bill to adjust for inefficiencies or
24 other matters as appropriate.

25 18. Timekeepers whose time is reflected on our billings include me, Dylan Schmeyer,
26 Mike Dunford, and Kathryn Tewson. The relevant experience of the professionals who worked

DECLARATION OF AKIVA COHEN- 3
(Case No. 2:21-cv-01112-TL)

MILLER NASH LLP
ATTORNEYS AT LAW
T: 206.624.8300 | F: 206.340.9599
PIER 70
2801 ALASKAN WAY, STE 300
SEATTLE, WASHINGTON 98121

1 on this matter is summarized in their firm resumes. A copy of each timekeeper's resume is
 2 attached as Exhibit 17, and the facts set forth there regarding each professional's experience is
 3 incorporated by reference.

4 19. The hours spent in connection with this litigation were necessary and reasonable
 5 given the complexity of the issues presented by the complaint. I am a commercial litigator who
 6 was first admitted to practice in 2005. My billing rate is \$550 per hour. Mr. Schmeyer is a third-
 7 year litigator who came to the practice of law after running his own business consultancy for
 8 more than five years. His billing rate is \$375 per hour. Mr. Dunford is a first-year litigator and
 9 copyright scholar. His billing rate is \$375 per hour. Ms. Tewson is the firm's lead paralegal,
 10 OSINT (open source intelligence) investigator, and blockchain auditor. Her billing rate is \$115
 11 per hour. The hourly rates for services charged to Bungie for this complex litigation are
 12 reasonable and are appropriate for and comparable to (or below) the rates charged in the Seattle,
 13 Washington area for attorneys and paralegals of comparable skill, experience, and reputation,
 14 and my own hourly rate is below market for the New York market in which I work.

15
 16 I declare under penalty of perjury under the laws of the United States that the foregoing is
 17 true and correct.

18
 19 DATED this 20th day of January at Oceanside, New York.

20
 21 /s/ Akiva M. Cohen

22 Akiva M. Cohen

23
 24 4891-8282-6821.1
 25
 26

DECLARATION OF AKIVA COHEN- 4
 (Case No. 2:21-cv-01112-TL)

MILLER NASH LLP
 ATTORNEYS AT LAW
 T: 206.624.8300 | F: 206.340.9599
 PIER 70
 2801 ALASKAN WAY, STE 300
 SEATTLE, WASHINGTON 98121